

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARTIN DAVID SMILLIE : CIVIL ACTION
v. :
DONALD T. VAUGHN, et al. : NO. 02-4521

ORDER

AND NOW, this day of July, 2002, it appearing that on April 15, 2002, petitioner filed a petition in this court for Habeas Corpus relief under 28 U.S.C. §2254, which was assigned number 02-cv-2139, and

it further appearing that at the time 02-cv-2139 was filed, petitioner was incarcerated in a facility located in Montgomery County, Pennsylvania, and that by means of his petition in 02-cv-2139, petitioner attempted to attack his conviction in the Court of Common Pleas of Erie County, Pennsylvania, and

it further appearing that although this court did have venue over 02-cv-2139 pursuant to 28 U.S.C. §2241(d), as Montgomery County is located within this district, that this court decided to transfer 02-cv-2139 to the United States District Court for the Western District of Pennsylvania, where Erie County is located, and that 02-cv-2139 was accordingly transferred to that federal court on June 17, 2002, and

it further appearing that on July 8, 2002, petitioner, who is still incarcerated in Montgomery County, filed another 28 U.S.C. §2254 in this court attempting to attack his conviction in Erie County, it is hereby

ORDERED that petitioner is granted provisional leave to proceed in forma pauperis in 02-cv-4521 for the purposes of this Order only, and, it is further

ORDERED that the Clerk of this Court shall transfer 02-cv-4521 to the United States District Court for the Western District of Pennsylvania, and, it is further

ORDERED that the Clerk of this Court is directed to mark 02-cv-4521 as closed for all purposes.

WILLIAM H. YOHN, JR., J.